



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/810,112

03/26/2004

David Fifield

BP 3208

8027

34399 7590 09/27/2007  
GARLICK HARRISON & MARKISON  
P.O. BOX 160727  
AUSTIN, TX 78716-0727

EXAMINER

SAMS, MATTHEW C

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

09/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10810112	3/26/2004	FIFIELD, DAVID	BP 3208

GARLICK HARRISON & MARKISON  
P.O. BOX 160727  
AUSTIN, TX 78716-0727

**EXAMINER**

Matthew C. Sams

ART UNIT	PAPER
----------	-------

2617

20070912

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

The Reply Brief filed on 8/29/2007 has been noted.  
A response to the arguments in the Reply Brief is included.

Matthew C. Sams  
9/13/2007

***Reply Brief Noted and Supplemental Examiner's Answer***

1. The Reply Brief filed on 8/29/2007 has been received and entered.
2. Responsive to the Reply Brief filed on 8/29/2007, a supplemental Examiner's Answer is set forth below.

In pages 1-2 of the Appellant's Reply Brief, the Appellant argues the Greer reference does not provide an enabling disclosure as required by 35 U.S.C. 112, first paragraph, because the features relied upon (claim 17 of Greer) are not explicitly discussed in the Detailed Description portion or drawings of the disclosure.

However, Appellant has failed to provide any explanation as to why the disclosure would be non-enabling, except to say that besides being claimed by Greer, first and second pairs of antennas are not explicitly discussed in the Detailed Description portion or drawings of the disclosure. Appellant even recognizes that the claims are part of the specification, but feels that the mere recitation of having two pairs of antennas (instead of only one pair) would not be enabling.

First off, the examiner disagrees as to the extent of the Greer disclosure. Although Greer doesn't explicitly recite the use of "a first pair and a second pair of antennas" in the Detailed Description portion, he clearly suggests that his intent is to using "two or more antennas" (a pair being two, more being more than just one pair). See paragraph [33]. Thus it is considered that the claiming of a "first pair and a second pair of antennas" by Greer in light of paragraph 33 of the disclosure would lead someone reading the reference as a whole to apply the concept to the possibility of

having a second pair of antennas wherever a single pair of antennas may be explicitly embodied.

Second, the explicit recitation by Greer of having a two pairs of antennas (claim 17) is part of the specification as filed. Further, Greer explicitly discloses an antenna system comprising a first pair of antennas and a controller for selecting the particular antenna. See Fig. 1 for example. So the question of whether claim 17 is enabled seems to come down to whether one of ordinary skill in the art would be able to add a second pair of antennas to the antenna system. The examiner considers that if one of ordinary skill in the art at the time of the invention could have constructed one pair of antennas then logically there is no reason to believe that they would not have been able to construct a second pair of antennas as well. Further, the particular radiation patterns and coverage areas of each type of antennas was well known in the art, and further discussed by Greer, see for example paragraph [34], therefore it is considered that selection and placement of more than two antennas, even a second pair of antennas was also well within the ability of one of ordinary skill in the art. Finally, Greer discloses wherein the controller 22, which selects a particular antenna based on signal quality metrics, was known in the art - see paragraph [46] and it is considered adapting the controller to select from four antennas instead of two would require only ordinary skill in the art.

Therefore it is considered that the reference is fully enabling, as one would have been able to make and use the invention without any other description being necessary.

Art Unit: 2617

Hence, the rejection stands as a valid 35 U.S.C. 103(a) rejection as recited in the Examiner Answer dated 6/29/2007 and the Final Rejection dated 8/2/2006.

3. Appellant may file another reply brief in compliance with 37 CFR 41.41 within two months of the date of mailing of this supplemental examiner's answer. Extensions of time under 37 CFR 1.136(a) are not applicable to this two month time period. See 37 CFR 41.43(b)-(c).

A Technology Center Director or designee has approved this supplemental examiner's answer by signing below:

MCS  
9/12/2007



WANDA L. WALKER  
DIRECTOR  
TECHNOLOGY CENTER 2600



LESTER G. KINCAID  
SUPERVISORY PRIMARY EXAMINER